# BEFORE THE TENNESSEE STATE BOARD OF EQUALIZATION

In Re:	John Smotherman	)
	District 5, Map 73J. Group A, Control Map 73O,	j
	Parcel 17.03	) Benton County
	Tax years 2005, 2006	)

## INITIAL DECISION AND ORDER

#### Statement of the Case

The subject property is presently subclassified as "commercial" and valued for tax purposes as follows:<sup>1</sup>

LAND VALUE	IMPROVEMENT VALUE	TOTAL VALUE	ASSESSMENT
\$81,300	\$0	\$81,300	\$32,520

The property owner has filed appeals with the State Board of Equalization ("State Board") pursuant to Tenn. Code Ann. section 67-5-1412.

The undersigned administrative judge conducted a hearing of this matter on August 3, 2006 in Camden. The appellant, John Smotherman, represented himself at the hearing. Benton County Assessor of Property Linda Armstrong was assisted by Larry Ellis, regional appraisal supervisor for the State Division of Property Assessments (DPA).

#### Findings of Fact and Conclusions of Law

The parcel in question consists of 2.5 acres of land on Highway 641 North in Camden. This vacant lot, which is currently zoned for commercial use, lies between an alternator & starter repair shop and a used car dealership. Mr. Smotherman purchased the property in 1995 with the expectation of reselling it at a profit. Alas, his efforts have thus far been unsuccessful. Most recently, about one year ago, the lot was listed for sale with an asking price of \$100,000.

As Mr. Ellis readily conceded, the subject parcel suffers from the drainage of storm water through the culverts that were installed when Highway 641 was built in the mid-Seventies. Based on a written estimate by a local trucking company dated June 8, 2006, the appellant projected that it would cost upwards of \$100,000 to upgrade the low-lying lot for commercial development in a manner consistent with state regulations. He did not believe an expenditure of that magnitude to be warranted by present land values in the area. Indeed, Mr. Smotherman testified that he would likely donate this land to a tax-exempt institution if he could not obtain relief from the greater tax burden as a result of the county-wide reappraisal.

<sup>&</sup>lt;sup>1</sup>Due apparently to an oversight with respect to the zoning of the subject property, it was originally subclassified in tax year 2005 as "residential" and valued at \$35,500. Later in that reappraisal year, the Assessor changed the subclassification and valuation of the property as shown. The property owner contested the increased assessment to no avail before the Benton County Board of Equalization in 2006.

On the Assessor's behalf, Mr. Ellis introduced a market analysis of the property in question that was prepared by one of his subordinates (Mark Volner). While acknowledging that most (if not all) of the selected comparables were topographically superior to the subject lot, Mr. Ellis noted that a 65% "condition factor" had already been applied to this property in recognition of the drainage problem. In his opinion, the current appraisal of \$32,500 per acre was best supported by the October, 2004 sale of 1.47-acre Parcel No. 05-073-077.01 (330 Highway 641 North) for \$100,000. That transaction included a building valued at \$27,200.

Tenn. Code Ann. section 67-5-601(a) provides (in relevant part) that "[t]he value of all property shall be ascertained from the evidence of its sound, intrinsic and immediate value, for purposes of sale between a willing seller and a willing buyer without consideration of speculative values...."

As the party seeking to change the present valuation of the subject property, the taxpayer has the burden of proof in this administrative proceeding. State Board Rule 0600-1-.11(1).

At one point during the hearing, Mr. Smotherman remarked that he did not know what the subject property was worth in its existing state. This forthright admission, coupled with his most recent asking price for the property, militates against any reduction of the disputed value. It is understood, of course, that this speculative land has yet to generate any income to the owner. The difficulty of quantifying an appropriate adjustment in a mass appraisal system for the condition of the lot is also recognized. However, the administrative judge cannot legitimately infer from the evidence of record that the Assessor's 35% deduction from the standard "unit land price" of \$50,000 per acre was insufficient. The only comparable sales introduced were those contained in DPA's report; and, even accepting the single contractor's estimate introduced by the appellant as an accurate measure of the cost of necessary site preparation, it begs the question of what this 2.5-acre lot on a major highway would sell for upon completion of such work.

### Order

It is, therefore, ORDERED that the following values be adopted for tax years 2005 and 2006:

LAND VALUE	IMPROVEMENT VALUE	TOTAL VALUE	ASSESSMENT
\$81,300	\$0	\$81,300	\$32,520

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal "must be filed within thirty (30) days from the date the initial decision is sent." Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal "identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order"; or

2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 8th day of September, 2006.

Pate Loved

ADMINISTRATIVE JUDGE
TENNESSEE DEPARTMENT OF STATE
ADMINISTRATIVE PROCEDURES DIVISION

cc: John Smotherman
Linda Armstrong, Benton County Assessor of Property

Larry Ellis, CAE, Regional Supervisor, State Division of Property Assessments

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